



Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

**Board of Selectmen Special Meeting Minutes
Special Meeting Minutes
Thursday, April 2, 2015
Colchester Town Hall @ 5pm**

RECEIVED
COLCHESTER, CT
2015 APR -9 AM 8:41

MEMBERS PRESENT: Selectman Denise Mizla, Selectman Rosemary Coyle, and Selectman Kurt Frantzen

MEMBERS ABSENT: First Selectman Stan Soby absent until 5:24

1. Call to Order

Selectman R Coyle called the meeting to order at 5:00 p.m.

2. Approve Minutes of the March 19, 2015 Regular Board of Selectmen Meeting

K Frantzen moved to approve the Regular Board of Selectmen Meeting minutes of March 19, 2015, seconded by D Mizla. Unanimously approved. MOTION CARRIED

3. Approve Minutes of the March 24, 2015 Special Board of Selectmen Meeting

D Mizla moved to approve the Special Board of Selectmen Meeting minutes of March 24, 2015, seconded by K Frantzen. Unanimously approved. MOTION CARRIED

4. Citizens Comments – none

5. Budget Transfers – none

6. Tax Refunds & Rebates

D Mizla moved to approve tax refunds in the amount of \$134.17 to Alexander and Mallory Muzykoski, \$375.16 to Mark or Lara Poulos, \$58.39 to Johannes Liebenberg, \$42.95 to Mark Dumond, \$29.86 to Mary or Kidd Collins, and \$126.99 to Temalyn Zuel, seconded by K Frantzen. Unanimously approved. MOTION CARRIED

7. Discussion and Possible Action on Setting the Annual Town Budget Meeting Date to Consider and Act upon the 2015-2016 Budget

D Mizla moved to set the Town Meeting date on April 22, 2015 at 7pm at Town Hall to send the Town Budget in the amount of \$13,863,442 and the Board of Education Budget in the amount of \$39,995,370 to Town Meeting, seconded by K Frantzen. Unanimously approved. MOTION CARRIED

8. Discussion and Possible Action on the 2015-2016 Competitive School Readiness Grant Application

K Frantzen moved to authorize the First Selectman to sign the 2015-2016 Competitive School Readiness Grant Application, seconded by D Mizla. Unanimously approved. MOTION CARRIED.

9. Discussion and Possible Action on the 2015-2016 Quality Enhancement Grant Application

K Frantzen moved to authorize the First Selectman to sign the 2015-2016 Quality Enhancement Grant Application, seconded by D Mizla. Unanimously approved. MOTION CARRIED.

10. Discussion and Possible Action on the 2015-2016 Discovery and Early Literacy Application

D Mizla moved to authorize the First Selectman to sign the 2015-2016 Discovery and Early Literacy Application, seconded by K Frantzen. Unanimously approved. MOTION CARRIED.

R Coyle asked to skip Agenda Items 11 & 12 and return when S Soby is present, continue with Items 13 & 15 and renumber accordingly.

11. Citizens Comments – none

12. Liaison Reports

D Mizla reported on Youth Services Advisory Board – Community Conversation presented on 3/25 and covered the topic

addition. It was well attended with 100 students and 50 parents. Next conversation will be in May and the topic will be alcohol. No Summer Palooza but instead a Summer Kick Off at WJJMS. Will include 5th – 8th grade students, this will serve as a fundraiser as well. The board voted to move forward with a grant application for \$125,000 for five years to promote a drug free community. The board needs to recruit members from the community in certain sectors to be eligible for the grant. Grant application is due May 20th.

R Coyle reported on Building Committee – working on the brochure to use up until the referendum date. Communicating on social media, as well as making presentations in the community. K Frantzen reported on the WJJMS walk through and presentation which was well attended.

Chatham Health – working on revising regulations for septic systems which need to be revised. Food services complaint ongoing from the state is being investigated. Budget surplus in 2013 to remove deficit from this year's budget.

First Selectman via teleconference at 5:24pm

13. Executive Session for Negotiations Regarding 139 Westchester Road

K Frantzen moved to enter into executive session to discuss Negotiations regarding 139 Westchester Road, inviting Nan Wasniewski and Town Planner Adam Turner, seconded by D Mizla. Unanimously approved. MOTION CARRIED.

Entered into executive session at 5:24pm

Exited from executive session at 5:42pm

Recess from 5:42pm until 5:49pm

14. Discussion and Possible Action on Agreement Regarding Property at 139 Westchester Road

K Frantzen moved to approve the attached motion, seconded by R Coyle. Unanimously approved. MOTION CARRIED.

15. First Selectman's Report

KX consolidation on the back burner, discussions with Mike Maniscalco to try and meet with officers of KX Board and municipal CEO's to see how we can move forward. Atty. representing KX did a good job of explaining the process; mediated settlement with Administrator's Union. Signed a tentative agreement, and Lockton held an insurance presentation and will do the same with the Fire Fighter and Police Unions during negotiations; 4/11 Spring cleanup scheduled; Ct Gigabit project vendor meeting on 4/9; Chatham new food services regulations are better than what was in place; Public health issue in town and have gotten Chatham involved, complaints received from neighbors. Have done some work in-house for the issue as well but now it's at the point where Chatham needs to take the lead; Interviewed top 2 candidates for the open Police officer position. Resident Trooper, Selectman and Police Commission involved in hiring the new officer and have chosen one that is post-certified and has worked previously for a municipality. In the conditional offer of employment process now.

16. Adjourn

K Frantzen moved to adjourn at 6:09 p.m., seconded by R Coyle. Unanimously approved. MOTION CARRIED.

Attachment – 139 Westchester Road

Respectfully submitted,

Tricia Dean, Clerk

Whereas The Town has been working with the property owner to eliminate a dam on the Jeremy River, restore the river to a different flow pattern, demolish and remove a mill and other buildings and develop a passive park.

Whereas many groups are involved in the overall project, either in a regulatory role or as part of the project management. They are the Nature Conservancy, the Department of Energy and Environmental Protection, the Army Corps of Engineers, the State Department of Historical Protection, the Department of Transportation and the Town of Colchester.

Whereas the Town's role in the project is to acquire the mill site, demolish the mill and other buildings and develop and maintain the site as a passive recreational park. The Town developed a demolition and rehabilitation program for the project and applied for a STEAP grant in April 2014. The grant was funded in June 2014.

Whereas The Town's role in developing the project are as follows:

- Develop a demolition plan for the site buildings. This task includes development of a detailed environmental assessment
- Demolish the site buildings
- Allow others (Nature Conservancy) to use the Site as a staging area for removal of the dam and placement of accumulated river sediment
- Stabilize and rehabilitate the property for public use
- Develop a passive recreational park

Whereas acquiring the land to complete the Towns potion of the project required an agreement with the current property owners to proceed.

Whereas the Town worked for several months with the property owners and others to develop these agreements. As public funding is being used to demolish, assess and rehabilitate the property, the Town must first own and control the property for eventual use by the public. Before owning the property, the Town must first be satisfied that the environmental condition and other matters regarding the property are acceptable.

Whereas a Memorandum of Understanding ("MOU") and a Purchase and Sale Agreement ("P&S") have been negotiated to manage these issues. The MOU and P&S was drafted by our attorneys at Shipman & Goodwin LLP, with input from the Town and the property owner. The MOU and P&S are summarized below:

Whereas the Town will conduct a detailed environmental assessment and other inspections prior to purchase (due diligence period). Town will have 120 days to complete this task and can extend for additional 60 days should that be required.

Whereas In the event that the Town determines in its sole discretion that the condition of the Premises is unacceptable for any reason or no reason, it can terminate the agreement.

Whereas after all contingencies are met to the Town's satisfaction, the matter must still be presented to the Board of Selectmen for approval, and to the public at a Town meeting in accordance with the Town Charter.

Therefore I motion to approve the memorandum of understanding and purchase agreement as submitted by Shipman and Goodwin LLC. Further we motion to permit the first selectman to sign documents and administer the project.

DRAFT MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, made as of the day of _____, 2015 (the "**Effective Date**"), between **NORTON PAPER MILL, LLC**, a Connecticut limited liability company having an address of 167 Marvin Road, Colchester, Connecticut 06415 (the "**Property Owner**") and the **TOWN OF COLCHESTER**, a municipal corporation of the State of Connecticut, having an address of 127 Norwich Avenue, Colchester, Connecticut 06415 (the "**Town**").

WHEREAS, the Town desires to acquire the property located at 139 Westchester Road, Colchester, Connecticut, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the "**Property**"), for the purpose of redevelopment into a public park in coordination with the Seller; and

WHEREAS, the Property Owner desires in preserving the history of the former Norton Paper Mill and creating green space for public enjoyment at the Property.

In consideration of the mutual covenants, promises and conditions contained in this Memorandum of Understanding, the parties, intending to be bound legally, agree as follows:

1. If the Town acquires the Property pursuant to the terms of that certain Purchase and Sale Agreement between the Property Owner and the Town, dated of even date herewith (the "**Purchase and Sale Agreement**"), and continuing for a period of ten (10) years after the acquisition, the Town agrees to the following covenants:

- a. The Town will demolish and remove all structures from the Property for the purpose of developing and creating a community park (the "**Park Project**"). The purpose of the Park Project is to create green space adjacent to the Jeremy River for passive recreational use for the public (the "**Park**"). The Town will include an [open space/conservation easement] in the deed upon taking title to the property which will restrict future use of the parcel to a community park; and
- b. The Park will have no new significant structures except for, at the discretion of the Town, historical and nature information kiosks, a small restroom facility, access to the Jeremy River, and other structures or designs consistent with a public park; and
- c. The Town will re-grade and re-vegetate the Property. To the extent, there are environmental conditions consistent with the use of the Property as a public park, the Town will undertake any remediation it deems prudent or as otherwise required by applicable law, at its own cost.

2. The Town shall afford the Property Owner the following rights and opportunities:

- a. To the extent permitted by applicable law and as approved by the Town, the Property Owner may designate a member(s) to participate in any Town committee or group which develops plans for the Park Project and subsequent execution of such plans. Nothing herein shall be deemed to limit the Property Owner's ability to participate in the development of plans for the Park Project as a member of the public;
- b. The Park Project shall be named "Norton Park"; and
- c. The Park Project will consider, but is under no obligation to implement, green development and landscaping ideas, including re-use of some brick and other appropriate materials from the mill structure to be incorporated in the new park; and
- d. At the sole discretion of the Town and at the Town's written direction, the Property Owner shall cooperate with the Town to facilitate a transition with regard to The Nature Conservancy's dam removal project.

3. The Town agrees to keep confidential, and not disseminate to any third party, draft reports the Town and/or its representatives obtain or develop during or as a result of the Assessment Work (as such term is defined in the Purchase and Sale Agreement) and in contemplation of the issuance of a final report (the "Assessment Work Report"); provided; however, if the Town believes it is required by law to disseminate any draft reports to any governmental authority, at least ten (10) business days prior to finalizing the Assessment Work Report, the Town will provide a draft copy to the Property Owner for its review and comment. The Town will consider such comments before finalizing the Assessment Work Report, but shall be under no obligation with to incorporate any such comments. Failure of the Property Owner to provide comments within ten (10) days after receipt of any draft copy of the report shall constitute acceptance thereof and shall be deemed a waiver of the Property Owner's right to comment on the final Assessment Work Report.

4. Communications. Upon issuance of the final Assessment Work Report, the Assessment Work Report shall be deemed a public record. The Town shall deliver to the Property Owner a copy of the Assessment Work Report promptly once it is finalized; provided; however, the Town's failure to provide such copy shall not be deemed a material default under the terms of this Memorandum of Understanding. To the extent the Town prepares and issues the Assessment Work Report, and until the Closing (as such term is defined in the Purchase and Sale Agreement), the Town shall provide the Property Owner with five (5) days' prior written notice of press releases or documents it creates of written information regarding the Park Project or the Assessment Work. In the event that five (5) days prior notice is not feasible, immediate verbal notice shall be provided prior to the issuance of such information, to the extent within the Town's control.

5. Public outreach. Until completion of the Park~~the Closing~~ and to the extent reasonably feasible, the parties agree to cooperate in the strategy, preparation and

dissemination of information regarding the Park Project. To the extent available and able to attend, the Property Owner or designated representative(s) agrees to participate and support the Town at public meetings and other forums to present this matter to the public.

IN WITNESS WHEREOF, the Town and Property Owner have hereunto set their hands as of the Effective Date.

PROPERTY OWNER:

Norton Paper Mill, LLC

By: _____
Nancy Wasniewski
Its Sole Member
Date: _____

TOWN:

TOWN OF COLCHESTER

By: _____
Name: _____
Its: _____
Date: _____

Exhibit A
Legal Description

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT, made as of the _____ day of March, 2015 (the "**Effective Date**"), between **NORTON PAPER MILL, LLC**, a Connecticut limited liability company having an address of 167 Marvin Road, Colchester, Connecticut 06415 (the "**Seller**") and the **TOWN OF COLCHESTER**, a municipal corporation of the State of Connecticut, having an address of 127 Norwich Avenue, Colchester, Connecticut 06415 (the "**Purchaser**").

Background

A. The Seller is the owner of that certain parcel of real property, together with the appurtenances thereto and the buildings and improvements, if any, located thereon and situated in the Town of Colchester, County of New London and State of Connecticut and commonly known as **139 Westchester Road, Colchester, Connecticut**, as more particularly set forth and described on the attached Exhibit "A", attached hereto and incorporated herein by reference (the "**Property**").

B. The Seller desires to sell the Property to the Purchaser and the Purchaser desires to purchase the Property from the Seller, all in the manner and in accordance with and subject to the terms and conditions set forth in this Agreement.

Agreement

In consideration of the Background, which is incorporated herein by reference, and the mutual covenants, promises and conditions contained in this Agreement, the parties, intending to be bound legally, agree as follows:

1. Agreement to Purchase and Sell. The Seller and the Purchaser agree that the Seller shall sell and convey to the Purchaser and the Purchaser shall purchase from the Seller, in the manner set forth below, on or before the Closing Date (as defined below), the Property, together with (i) all right, title and interest of the Seller in and to any land lying in the bed of any streets (open or proposed) adjacent or abutting or adjoining the Property, together with all rights, privileges, rights of way and easements appurtenant to the Property, including, without limitation, all minerals on or under the Property, development rights, air rights, and any easements, rights of way or other interests in, on or under any lands, highways, alleys, streets or rights of way abutting or adjoining the Property, and all buildings and other improvements located thereon; (ii) all of Seller's right, title and interest in and to the fixtures, equipment, machinery and other items of tangible personal property which are owned by Seller and which are used in the operation of the building and the improvements, including without limitation, partitions, furnishings, carpeting, air-conditioners, plumbing, heating, lighting and air-conditioning equipment, apparatus, machinery, motors and transformers now or hereafter attached to or used in the operation

of the building or the improvements subject to depletions, replacements and additions in the ordinary course of Seller's business (collectively called the "Personal Property"); (iii) all transferable reports, approvals, licenses, permits, certificates, special permits, site plan approvals and variances benefiting, owned or caused to be prepared by the Seller with respect to the Property; (iv) all leases and security deposits with respect to the Property and (v) any and all other rights, privileges, and appurtenances owned by Seller and exclusively related to, or used in connection with, the Property, to the extent assignable. The Property and all items referred to in clauses (i), (iii), and (v) are herein collectively referred to as the "Premises."

The Premises shall be conveyed subject to and in accordance with the terms, conditions and provisions as set forth in this Agreement.

2. Purchase Price. Subject to the adjustments and prorations hereinafter described, the Purchaser agrees to pay to the Seller as the total purchase price for the Premises, the sum of **ONE and 00/100 DOLLAR (\$1.00)** (the "Purchase Price"). The Purchase Price, in such lesser or greater amount as adjusted pursuant to the express terms of this Agreement, shall be payable to the Seller by cash, certified or bank check, or by wire transfer of immediately available federal funds on the Closing Date (as defined below).

3. Purchaser's Inspections and Approvals.

(a) Inspections. Purchaser shall have the right to conduct any and all inspections of the Premises and the improvements thereon deemed necessary or desirable in Purchaser's sole discretion, including but not limited to a geotechnical examination of the surface and subsurface conditions of the Premises and an environmental site assessment of the Premises, at Purchaser's sole cost and expense (collectively, the "Inspections"). The Inspections shall be performed by the Purchaser within one hundred twenty (120) days after the Effective Date (as same may be extended pursuant to the terms of this Agreement, the "Due Diligence Period"). Purchaser shall have the right to extend the Due Diligence Period for two (2) additional periods of thirty (30) days each, upon written notice delivered to Seller and Seller's approval of same prior to the expiration of the Due Diligence Period. Seller shall not unreasonably withhold, condition, or delay its approval. Seller's failure to respond to Purchaser's request prior to the expiration of the Due Diligence period shall be deemed Seller's consent to such request for an approval. During the Due Diligence Period, as part of the Inspections, the Purchaser shall conduct a combined Phase I/Phase II Environmental Site Assessment Report of the Premises, together with any additional testing or underground testing or soil samples as recommended by the environmental engineer, subject to and in accordance with the terms, conditions and provisions set forth in this Agreement.

1. In the event that the Purchaser determines, in its sole discretion, that the condition of the Premises is unacceptable, for any reason or no reason, then the Purchaser must notify the Seller, in writing, of such determination no later than 5:00 p.m. on the last day of the Due Diligence Period (as said Due Diligence Period may have be extended), together with a written statement that the Purchaser is terminating this

Agreement. Upon such written notification of such termination to the Seller, the parties shall have no further obligation to each other hereunder, and this Agreement shall become null and void and of no further force and effect, except with regard to Section 4.2 of this Agreement. Absent written notice of termination from the Purchaser to the Seller by 5:00 p.m. on the last day of the Due Diligence Period (as said Due Diligence Period may have been extended) then it shall be conclusively deemed that, Purchaser's right to terminate this Agreement pursuant to this Section 3(a) shall be deemed to have lapsed or been waived.

(b) Selectman Approval. In the event that Purchaser does not terminate this Agreement pursuant to Section 3(a) hereof, Purchaser shall be obligated to purchase the Premises only if Purchaser has obtained final, unappealable, and binding approval of the transaction contemplated by this Agreement (the "Town Approval") from the Board of Selectman and Town Meeting on or before that day which is sixty (60) days after the expiration of the Due Diligence Period (the "Approval Date"). In the event that the Purchaser does not receive Town Approval on or before the Approval Date, as the same may have been extended by the mutual written agreement of the parties hereto, Purchaser shall give Seller notice that such Town Approval was not received, and upon the giving of such notice, this Agreement shall terminate, and neither party shall have any liability to the other hereunder, except as otherwise expressly provided herein.

(c) Cooperation. At no cost or liability to the Seller, the Seller shall cooperate with the Purchaser in the Purchaser's Inspections, and the Seller will deliver or make available to the Purchaser copies of all reports and surveys that the Seller, to the best of its knowledge, has with respect to the Premises. Within ten (10) days after the Effective Date of this Agreement, the Seller shall furnish to the Purchaser and its agents copies of the following documents within its possession regarding the Premises: (i) title reports or title policies; (ii) copies of surveys, floor plans or building plans; (iii) permits and engineering reports or environmental reports; and (iv) a copy of the residential lease.

4. Environmental Matters.

4.1 Notwithstanding any other Inspections Purchaser undertakes, Seller agrees to allow the Purchaser or the Purchaser's agents and representatives to access the Property during the Due Diligence Period for the purpose of conducting an environmental inspection and sampling of the Property, including an assessment of a certain dam structure located on or adjacent to the Property (the "Assessment Work"), subject to the terms and conditions set forth herein.

(a) The Purchaser shall give Seller at least three (3) business days' prior written notice of its intention to conduct the Assessment Work, unless otherwise agreed to by Seller. Each notice shall specify the nature of the activity, the approximate location of same, the date and the approximate time and the contractor who will undertake the work. Notice shall be delivered to the Seller, with a copy to Seller's attorney, in accordance with the provisions of Section 24 hereof.

(b) The Purchaser agrees that Seller may have a representative present to observe all Assessment Work activities conducted at the Property; provided, however, any such representative shall not interfere with or cause a delay in the Assessment Work.

(c) In conducting the Assessment Work, the Purchaser agrees to require its environmental consultant and any other agent, consultant or contractor performing Assessment Work activities to comply with the insurance requirements set forth in Exhibit B attached hereto and made a part hereof. Prior to commencement of the performance of the Phase II Assessment, Purchaser shall deliver to Seller copies of all insurance certificates for coverages required hereunder or such other evidence of compliance with the foregoing insurance requirements as is required by this Agreement as set forth in Exhibit B. [CONFIRMING PRIOR DELIVERY OF CERTIFICATES WITH TOWN]

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(d) The Assessment Work shall be at the Purchaser's sole cost and expense and the Purchaser agrees to keep the Property free and clear of any liens that may arise as a result thereof.

(e) The Assessment Work shall be completed on or before the expiration of the Due Diligence Period. At Seller's request, Purchaser shall promptly provide copies of any final reports relating to the Assessment Work to Seller, at no cost to Seller.

(f) All activities undertaken in connection with the Assessment Work shall fully comply with applicable law and regulations, including laws and regulations relating to worker safety and to proper disposal of any disturbed or discarded materials. The Purchaser shall conduct all activities in, under, and upon the Property with reasonable care to ensure personal safety and minimize damage to the existing structures, or to any utilities that are or may be underneath the Property, and the Purchaser shall be responsible for any damage that may be done to the structures, any utilities, or private, third party property as a result, directly or indirectly, of any such activity. The Purchaser is solely responsible for the off-site disposal of such materials and any samples taken or waste associated therewith. Additionally, the Purchaser shall containerize all investigation-derived materials and other waste materials generated on site for characterization and disposal. All investigation-derived materials and wastes shall be temporarily staged by the Purchaser in a manner consistent with good professional practice and in such a way to minimize the potential of release. Seller makes no representations or warranties regarding conditions at the Property relating to health or safety in connection with performance of any investigations at the Property.

(g) The Purchaser shall not unreasonably interfere with the normal use and activities at the Property, including tenant access to the dwelling located on the Property and parking areas.

(h) In the event that this Agreement is terminated and the sale of the Property to the Purchaser is not consummated, the Purchaser shall restore the Property to the same material condition as existed prior to the commencement of the Assessment Work, unless otherwise agreed to by Seller.

(i) To the extent the Assessment Work identifies a potential Significant Environmental Hazard ("SEH"), the Purchaser shall verbally notify the Seller immediately. The Purchaser and Seller agree to cooperate with regard to evaluation of the existence of a SEH and protocols for communications relating to same, as provided in the Connecticut General Statutes. Notwithstanding the foregoing, if in Purchaser's opinion, it has a legal obligation to disclose the SEH to the Connecticut Department of Energy and Environmental Protection, and if Seller fails to do so, then Purchaser shall make such required disclosure.

4.2 With respect to any and all obligations, losses, injuries, damages, claims, liens, costs, expenses, demands, liabilities, penalties, investigation and remediation costs incurred by Seller in connection with or arising directly or indirectly out of or in any way connected with the Assessment Work, Seller shall seek recovery, first from Purchaser's environmental consultant's insurance and secondarily, after such coverage from Purchaser's environmental consultant is paid and exhausted or denied or limited by the insurance carrier for Purchaser's environmental consultant; from Purchaser's insurance, but only up to the limits of Purchaser's coverage. Purchaser shall use commercially reasonable efforts to ensure that Seller is to be named as an additional insurance under all such insurance policies held by the Purchase and those held by its environmental consultant. With respect to any and all other obligations, losses, injuries, damages, claims, liens, costs, expenses, demands, liabilities, penalties, investigation and remediation costs, including actual and reasonable attorney's fees and costs, incurred in connection with or arising directly or indirectly out of or in any way connected with this Agreement, Seller shall seek recovery from Purchaser, but only up to the limits of Purchaser's coverage. For the avoidance of doubt, at no time shall Purchaser be liable for amounts in excess of its insurance coverage.

4.3 Prior to the Closing, to the extent within Purchaser's control, Purchaser will provide prior notice to Seller of any Town of Colchester commission or other municipal meeting at which written information about the environmental condition of the Property is expected to be provided to the members of such commission and/or participants of the meeting.

5. Dam.

5.1 After the expiration of the Due Diligence Period, assuming this Agreement has not been terminated pursuant to the terms of Section 3(a), Purchaser shall arrange for a survey (the "Survey") to be conducted by a licensed, bonded, and insured surveyor, clearly identifying the boundary lines of the Property, including, without limitation, the location of the dam, so that it is clear Purchaser's obligation under the terms of this Agreement is to purchase the parcel(s) containing the mill and landward side of the Jeremy River and not any portion of the Jeremy River or the dam. The cost of such survey shall be shared equally between the parties.

5.2 In addition to those matters set forth in Section 6.2 herein, Purchaser's obligation to pay the Purchase Price and to close hereunder shall be subject to the receipt of a satisfactory Survey, as reasonably determined by Purchaser and

Purchaser's Title Company.

6. Closing.

6.1 Place and Date. The closing of the purchase and sale of the Premises (the "Closing") shall take place at the offices of Shipman & Goodwin LLP, One Constitution Plaza, Hartford, Connecticut, or in escrow by mail, on that date which is thirty (30) days after the Purchaser provides written notice to the Seller that the Purchaser is ready to close (the "Purchaser's Notice to Close"), or such other date as is mutually agreed upon by the parties (the "Closing Date").

6.2 The Purchaser's Conditions to Closing. The Purchaser's obligation to pay the Purchase Price and to close hereunder shall be subject to the occurrence of the following conditions precedent on and as of the Closing Date:

(a) The Seller's representations in this Agreement shall be true and correct in all material respects as of the Closing Date;

(b) The physical condition of the Property shall be the same on the Closing Date as on the date hereof, reasonable wear and tear and loss by casualty excepted, and, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding pending with respect to the Property.

(c) The Seller shall have complied with its obligations hereunder in all material respects.

(d) Possession of the Property shall be delivered by the Seller to the Purchaser free and clear of all tenancies and other occupancies, with the exception of the residential tenant occupying the dwelling located on the Property.

(e) The Seller shall convey good and marketable title, insurable by a title insurance company in the Title Company Pool, as hereinafter defined, at regular rates;

(f) The Purchaser shall not have terminated this Agreement pursuant to the provisions of Sections 3 or 10 hereof;

(g) The Purchaser's receipt of a satisfactory Survey, as reasonably determined by Purchaser and Purchaser's Title Company.

7. Permitted Encumbrances. Subject to Purchaser's review of title pursuant to Section 10, the Seller shall convey the Premises to the Purchaser subject to, but not limited to, the following (collectively, the "Permitted Encumbrances"):

(a) All provisions of any ordinance, municipal regulation or public or private law; provided that the same shall not be in violation at the date of closing;

(b) Real estate taxes not yet due and payable as of the Closing Date;

(c) Such conditions as an accurate survey or personal inspection of the Premises would show;

(d) Such other matters as of record may appear, provided the same do not render title unmarketable; and

(e) Public improvement assessments and/or any unpaid installments thereof which assessments and/or installments become due and payable after the date of delivery of the Deed, which assessments and/or installments the Purchaser will assume and agree to pay as part of the consideration for the Deed. Any assessment on the Property, including, without limitation, municipal assessments or lien imposed against the Property prior to the date of this Agreement, and any assessment or lien hereafter imposed for any improvements completed prior to this Agreement or in progress at the Property on the date of this Agreement, shall be the obligation of Seller, and Seller shall pay such assessment, in full, prior to the Closing.

8. Delivery of Documents. (a) At the Closing, the Seller shall deliver to the Purchaser the following documents:

(i) a Warranty Deed in proper Connecticut form (the "**Deed**"), sufficient to convey the Seller's fee simple interest in and to the Premises to the Purchaser, subject only to the Permitted Encumbrances, together with funds sufficient to pay all state and municipal conveyance taxes for this transaction;

(ii) affidavits customarily required by title insurance companies in the State of Connecticut for the issuing of title insurance, provided all of the representations are to the best of the Seller's knowledge and belief;

(iii) an affidavit of the Seller certifying that the Seller is not a "foreign person" as defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended;

(iv) all keys and alarm codes, if any, which the Seller has to the improvements located on the Property, including but not limited to the dwelling thereon;

(v) a certificate that all representations and warranties of Seller in Section 17 are true as of the Closing Date;

(vi) a Member's Certificate of the Seller, attaching certified Articles of Organization, Operating Agreement, if any, Certificate of Legal Existence, and authorizing resolutions approving the Agreement and the transaction contemplated hereby, reasonably satisfactory to the Purchaser and the Title Company;

(vii) a settlement statement executed by the Seller;

(viii) an Assignment of Lease with respect to the residential lease, together with a check in immediately available funds representing the security deposit, together with statutorily required interest;

(ix) a Bill of Sale with respect to the Personal Property; and

(x) such additional documents as may be reasonably required by the Purchaser to consummate the sale of the Premises pursuant to the terms of this Agreement.

(b) At the Closing, the Purchaser shall deliver to the Seller the following: (i) the Purchase Price as required pursuant to this Agreement; (ii) a settlement statement executed by the Purchaser; and (iii) such additional documents as may be reasonably required by the Seller to consummate the sale of the Premises to the Purchaser.

9. Costs and Expenses.

(a) The Purchaser shall be liable for all of the Purchaser's costs and expenses arising out of or in connection with the transactions contemplated by this Agreement, including, without limitation, (i) the cost to record the Deed in the Colchester Land Records, (ii) the Purchaser's legal fees incurred in connection with the purchase of the Premises under this Agreement, (iii) the cost of the Inspections, and (iv) the cost of any and all searches and examinations of title to the Premises and title insurance policies relating thereto.

(b) The Seller shall be liable for all real property, transfer and conveyance taxes. Seller shall also be responsible for its legal counsel fees, broker fees and commissions and any fees (including recording fees) to release any mortgage or any other encumbrance of record.

10. Title.

(a) The Purchaser, at its sole cost and expense, shall order a title report of the Premises (including a municipal departmental search), which title report shall be completed and reviewed by the Purchaser no later than twenty (20) business days after the Effective Date (the "Title Review Period"). The Purchaser shall notify the Seller in writing of any objections to title, other than the Permitted Encumbrances set forth in Section 7, which it may have no later than 5:00 p.m. on the day that is twenty (20) business days after the expiration of the Title Review Period (the "Objections"). The Purchaser shall be deemed to have waived the right to object to any matter shown on the title report or otherwise existing of record and not otherwise noted as an Objection. The Seller shall have sixty (60) days from the receipt of the Purchaser's notice of Objections (or Additional Encumbrances, as defined in subsection (b) below), during which the Seller may, but shall not be obligated to, remedy any defect set forth in the Purchaser's notice. Following the first to occur of (i) the Seller's notice to the Purchaser of the Seller's inability to remedy such defect in title, or (ii) the expiration of such sixty (60) day period, the Purchaser shall have ten (10) days to either (x) accept the title the Seller is able to convey without abatement, reduction or setoff against the Purchase Price or (y) to terminate this Agreement. In the event of termination by the Purchaser, this Agreement shall automatically terminate and the parties shall be released from all further obligations under this Agreement, except to the extent otherwise expressly provided herein. In the event the

Purchaser fails to notify the Seller of its desire to terminate within such ten (10) day period, the Purchaser shall be deemed to have elected to accept title as set forth in clause (x) above.

(b) In the event that either party becomes aware of any additional encumbrance arising after the Title Review Period but prior to the Closing Date (the "**Additional Encumbrances**"), upon receipt of notice of such Additional Encumbrance, the Seller shall have a period not to exceed sixty (60) days (the "**Cure Period**") to enable the Seller to remove the Additional Encumbrances as set forth in Section 10(a) above, and the Seller shall diligently use good faith efforts to remove such Additional Encumbrances. If an Additional Encumbrance is discovered less than sixty (60) days prior to the Closing Date, the Closing Date shall be extended on a day-per-day basis such that the period between the discovery of the Additional Encumbrance and the Closing Date is sixty (60) days. In any event, the Seller must remove any monetary encumbrances, including without limitation mortgages, mechanics liens, judgment liens, and/or tax liens. In the event the Seller is not willing or able to remove the Additional Encumbrances prior to the Closing or prior to the termination of the Cure Period, then the Purchaser may terminate this Agreement by notifying the Seller in writing to such effect within ten (10) business days following the expiration of the Cure Period, in which case all liabilities and obligations of each party to the other hereunder shall be null and void and of no further force and effect, except as otherwise expressly provided herein. If the Purchaser does not terminate this Agreement, the Purchaser shall accept such title as the Seller can convey without reduction in the Purchase Price. The Purchaser shall be solely responsible for the costs of any and all owner's title insurance policies and any title searches conducted in connection with the Premises.

(c) For purposes of this Agreement, nothing shall be deemed to be an Objection to title or encumbrance against title unless (i) the Purchaser's title insurance company, which shall be one of First American Title Insurance Company, Lawyer's Title Insurance Company, Chicago Title Insurance Company, Stewart Title Guaranty Company, Fidelity National Title Insurance Company or Ticor Title Insurance Company (collectively, the "**Title Company Pool**"), shall not be willing to issue an owner's title insurance policy insuring marketable title to the Premises without exception for such objection or encumbrance, and (ii) such objection or encumbrance is considered an objection under the Standards of Title of the Connecticut Bar Association or renders title unmarketable pursuant to the Connecticut General Statutes. The Seller shall be entitled to provide the Purchaser with policies of title insurance, at the Purchaser's cost (not to exceed the normal title insurance premium), from any of the companies in the Title Company Pool in the event the Purchaser shall be unable to obtain a policy of title insurance in accordance with the terms of this Section 10.

11. Possession. The Seller shall deliver exclusive possession of the Premises to the Purchaser, or its designee, at Closing, in "AS IS" condition as of the date of this Agreement, subject to reasonable wear and tear and casualty or condemnation as set forth herein, with no party having any possessory rights thereto other than the residential tenant occupying the dwelling located on the Property.

12. Adjustments. Adjustment of real property taxes, sewer, rents, and other charges, to the extent the Purchaser is assessed any such charges, shall be made as of the Closing Date in accordance with the prevailing practices of the New London County Bar Association.

13. Risk of Loss. The Seller shall bear the risk of all loss or damage to the Premises from all causes prior to the Closing. In the event that, prior to the Closing, the Premises shall suffer any fire or casualty or any injury beyond ordinary wear and tear, the Seller shall immediately notify the Purchaser, and if the damage caused thereby is in excess of \$50,000.00, the Purchaser shall have the option of either (a) terminating this Agreement by providing the Seller with written notice thereof, whereupon this Agreement shall be null and void, or (b) consummating the transaction contemplated hereunder without reduction of the Purchase Price and the Purchaser shall be entitled to any insurance proceeds recovered by the Seller with respect to the Property on account of such damage together with an amount equal to the deductible under the policies of insurance, less any amount actually expended by the Seller for repair of the damage. In the event any damage is not in excess of \$50,000.00, the transaction hereunder shall be consummated without reduction in the Purchase Price and the Purchaser shall be entitled to any insurance proceeds recovered by the Seller with respect to the Property on account of such damage plus an amount equal to the lesser of (i) any insurance deductible amount or (ii) the cost of such repairs not previously paid for by the Seller as reasonably estimated by the Seller, less the amount, if any, actually expended by the Seller for repair of the damage. In the event the transaction is consummated pursuant to the terms of this Section 13, at Closing, the Seller shall provide the Purchaser with a written assignment of its interests in and to the insurance policy and proceeds.

14. Condemnation. If, prior to the Closing, all or any portion of the Premises is taken by eminent domain, the Purchaser shall have the option to either (a) elect to terminate this Agreement, or (b) to purchase the Premises subject to such action, without reduction in the Purchase Price, but with an assignment from the Seller of all proceeds received or to be received because of such action and otherwise in accordance with the terms and provisions of this Agreement. Upon receipt of any notice of such taking or condemnation, the Seller shall provide to the Purchaser a complete copy of any such notice or motion or other correspondence received by the Seller from the applicable taking authority. The Purchaser shall give written notice to the Seller of any election pursuant to this Section 14 within fifteen (15) business days following receipt by the Purchaser of any written notice from the Seller of such taking or proposed taking. Failure of the Purchaser to make such election within said period shall be deemed an election to proceed to Closing.

15. Condition of the Premises. The Purchaser agrees and represents that the Purchaser is purchasing the Premises in "AS IS" condition with all faults as of the date of this Agreement, subject to reasonable wear and tear and casualty or condemnation as set forth herein. In making and executing this Agreement, the Purchaser has not relied upon nor been induced by any statements or representations of any person with respect to the title to, or the physical condition of, the Premises, or of any other matter affecting, or relating to the Premises, including, but not limited to, the environmental condition of the Premises, building and/or zoning permits for the use or the operation thereof or this

transaction which might be pertinent in considering the making or the execution of this Agreement, except as specifically set forth herein. The Seller makes no representations or warranties as to the truth, accuracy or completeness of any materials, data or other information supplied to the Purchaser in connection with the Purchaser's inspection of the Premises. It is the parties' express understanding and agreement that such materials are provided only for the Purchaser's convenience in making its own examination and determination as to whether it wishes to purchase the Premises. The Purchaser has relied solely on the investigations, examinations and inspections, if any, as the Purchaser has chosen to make or has made. The Purchaser acknowledges that the Seller has and will afford the Purchaser the opportunity for full and complete investigations, examinations and inspections of the Premises in accordance with the terms of this Agreement. The Seller will provide or make available to the Purchaser copies of all files, plans, reports with respect to the Premises that the Seller presently has in its possession.

16. Brokers. The Purchaser represents that it has not engaged, on its behalf, any broker in connection with this Agreement for the purchase of the Premises. The Seller represents and warrants that it has no dealings, negotiations or engaged any brokers in connection with this Agreement or for the sale of the Premises. The Seller shall indemnify and hold the Purchaser harmless from all losses, damages, costs and expenses (including reasonable attorneys' fees) that the Purchaser may suffer as a result of any claim or suit brought by any broker or finder for any claims that such broker called the Premises to the Purchaser's attention or interested the Purchaser therein and based on its relationship with Seller is entitled to a commission arising from the sale of the Premises to Purchaser pursuant to the terms of this Agreement. This paragraph shall survive the delivery of the Deed and the Closing of title.

17. The Seller's Representations. The Seller represents, warrants and covenants as follows:

(a) The Seller is a validly existing limited liability company, duly organized under the laws of the State of Connecticut.

(b) The Seller has full power, capacity and authority to execute this Agreement and all other documents required to be executed and delivered by the Seller under this Agreement (the "Seller Documents") and to perform its obligations hereunder. The individual signing on behalf of Seller has full power and authority to bind the Seller.

(c) The Seller has not received written notice which remains effective on the date hereof of any claim, action or proceeding, including, without limitation, condemnation proceedings against the Premises, or against the Seller with respect to the Premises.

(d) To the best of the Seller's knowledge, there is no pending or threatened litigation, action, suit, proceeding or investigation (by any person, any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality or otherwise) affecting the ownership, use, occupancy, value, operation or title of the Premises, or any part thereof, or the consummation of the

sale to the Purchaser pursuant hereto. There is no tax appeal by Seller pending with respect to the Premises.

(e) The Seller has not received written notice which remains effective of the enforceable violation of (i) any applicable laws, ordinances, rules and regulations with respect to the Premises which have not heretofore been cured, or (ii) any enforceable recorded restrictions, conditions or covenants encumbering the Premises. Seller has no knowledge that the Premises is in violation of any legal requirements regarding the use, operation or ownership of the Premises.

(f) The Seller shall maintain its existing fire and extended property insurance coverage against fire and other casualty until the Closing.

(g) The representations of the Seller contained in this Section 17 will be true and accurate in all material respects as of the Closing and will not survive the Closing.

18. The Purchaser's Representations. The Purchaser represents as follows:

(a) The Purchaser is a municipal corporation, validly existing under the laws of the State of Connecticut.

(b) The Purchaser has full power, capacity and authority to execute this Agreement and all other documents required to be executed and delivered by the Purchaser under this Agreement (the "Purchaser Documents") and to perform its obligations hereunder. The individual signing on behalf of Purchaser has full power and authority to bind the Purchaser.

(c) The representations of the Purchaser contained in this Section 18 will be true and accurate in all material respects as of the Closing and will not survive the Closing.

19. Default by the Seller. If the Seller shall default in any of its obligations hereunder for any reason except the Purchaser's default, the Purchaser shall have the following remedies, which shall be the Purchaser's sole and exclusive remedies: (a) to terminate this Agreement, or (b) to seek its right to specific performance of the Seller's obligations under this Agreement together with reimbursement of all its legal costs and expenses in connection with enforcing its right of specific performance.

20. Prior Agreements. This Agreement constitutes the entire agreement between the parties hereto affecting the Premises and supersedes any and all previous agreements, written or oral, between the parties and affecting the Premises. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

21. Effect of Delivery. The Seller's delivery, and the Purchaser's acceptance, of the Deed will constitute full compliance by the Seller of all of the terms, conditions, covenants and representations contained in this Agreement, except as otherwise

specifically stated in this Agreement that such terms or conditions will survive the Closing and delivery of the Deed.

22. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Connecticut.

23. Successors and Assigns. The rights and obligations contained herein shall be binding upon and inure to the benefit of the Seller, the Purchaser and their respective successors and assigns. The Purchaser shall not have the right to assign this Agreement without the prior written consent of the Seller, which consent shall not be unreasonably withheld, conditioned, or delayed.

24. Notices. All notices and other communications required or permitted to be given to a party under this Agreement shall be in writing and shall be deemed sufficiently given (i) three (3) days after notice is delivered or mailed by registered or certified mail, postage prepaid, return receipt requested to such party's address set forth below, unless an alternate addressee or address is furnished in writing by any party to the others; (ii) one (1) business day if sent or delivered by a nationally recognized overnight delivery service marked for delivery on the next business day; or (iii) upon receipt when transmitted by electronic mail if during regular business hours of the recipient, otherwise on the next business day, provided that notice is also sent by one of the other foregoing methods, in each case addressed to the party for whom it is intended at its address hereinafter set forth.

If to Seller, shall be addressed to:

Norton Paper Mill, LLC
c/o Nancy Wasniewski
16749 Marvin Road
Colchester, CT 06415
Email: Newskinoll@yahoo.com

With copy to:

Law Offices of Cindy J. Karlson, LLC
41 Blue Heron Drive
East Hampton, CT 06424
Attn: Cindy J. Karlson, Esq.
Email: Cindy@karlsonlawfirm.com

If to Purchaser:

Town of Colchester
127 Norwich Avenue
Colchester, CT 06415
Attn: ~~Adam Turner, Town Planner~~ STAN Swan
Email: planner@colchesterct.gov

Stan Swan

With copy to:

Shipman & Goodwin LLP
300 Atlantic Street, 3rd Floor
Stamford, CT 06901
Attn: Rebecca B. Brown, Esq.
Email: rbrown@goodwin.com

25. Counterparts/Facsimile/Electronic Mail. This Agreement may be executed in any number of counterparts and each counterpart will, for all purposes, be deemed to be an original, and all counterparts will together constitute one instrument. The parties hereto agree that this Agreement may be transmitted between them or their respective attorneys by electronic mail. The parties intend that .pdf signatures constitute original signatures and that an Agreement containing the signatures (original or .pdf) of all the parties is binding on the parties once sent via electronic mail to the opposing counsel.

26. Severability. If any provision of this Agreement or application to any party or circumstance is determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of that provision to that party or those circumstances, other than those as to which it is determined invalid or unenforceable, will not be affected thereby, and each provision of this Agreement will be valid and will be enforced to the fullest extent permitted by law.

27. Captions. The exhibit names and captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement, and shall not be used in construing this Agreement.

28. Interpretation. Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.

29. Recording. The parties agree that this Agreement shall not be recorded in any local registry or land records of any town or any city in which the Premises are located.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Seller and Purchaser have hereunto set their hands as of the Effective Date.

SELLER:

Norton Paper Mill, LLC

By: _____
Nancy Wasniewski
Its Sole Member
Date: _____

PURCHASER:

TOWN OF COLCHESTER

By: _____
Name: _____
Its: _____
Date: _____

EXHIBIT A

Legal Description

EXHIBIT B

Insurance Requirements for Assessment Work

A. Unless otherwise agreed to in writing by Seller, prior to performing any Assessment Work activities, the Purchaser's environmental consultant and any subcontractor thereof performing Assessment Work activities shall have and maintain at least the following insurance coverages:

i. Professional Liability Insurance

1. Limits of Liability: One Million Dollars (\$1,000,000) per occurrence and ~~Three~~ One Million Dollars (~~\$3~~1,000,000) annual aggregate.

ii. Workers' Compensation Insurance

1. Limits of Liability: As required by statute.

iii. Employers' Liability Insurance

1. Limits of Liability: \$100,000 Bodily Injury by accident - each accident; \$100,000 Bodily Injury by disease - each employee; \$500,000 disease policy limit.

iv. General Liability Insurance

1. Limits of Liability: One Million Dollars (\$1,000,000) combined single limit for Bodily Injury and Property Damage coverage and One Million Dollars (\$1,000,000) per occurrence for Contractual coverage.

v. Automobile Liability Insurance

1. Limits of Liability: Bodily Injury, \$500,000 each person, \$500,000 each occurrence, Property Damage, \$500,000 each occurrence.

B. Contractor's Pollution Liability Insurance

1. Limits of Liability: One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, providing coverage for on- and off-site clean-up cost, bodily injury and property damage.

C. Additional Requirements

- i. Such insurance shall not be subject to cancellation except upon thirty (30) days prior written notice to Seller.

- ii. Prior to commencement of the performance of the Assessment Work, Purchaser shall deliver to Seller copies of all insurance certificates for coverages required hereunder or such other evidence of compliance with the foregoing insurance requirements as is reasonably satisfactory to Seller.
- iii. Seller shall be named as additional insured under the General Liability and Automobile Liability insurance policies required to be maintained by Purchaser's consultant and/or any subcontractor thereof.
- iv. All insurance coverages maintained by Purchaser's consultant and any subcontractor thereof shall be primary and not contributing with any insurance maintained by Seller.